

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

FRANK J. AVELLINO, *et al.*,

Defendants.

Adv. Pro. No. 10-05421 (SMB)

**STIPULATION AND ORDER SETTING BRIEFING SCHEDULE AND ADJOURNING
PRE-TRIAL CONFERENCE AND HEARING**

WHEREAS, on December 10, 2010, Irving H. Picard, as trustee (the “Trustee”) for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa *et seq.*, and the substantively consolidated estate of Bernard L. Madoff individually, commenced the above-captioned adversary proceeding (the “Adversary Proceeding”);

WHEREAS, on June 6, 2011, the law firm of Haile, Shaw & Pfaffenberger, P.A., as counsel for the defendants in the Adversary Proceeding identified in Exhibit A attached hereto

(the “Avellino Defendants”), filed a motion to dismiss the Adversary Proceeding (the “Original Motion to Dismiss”);

WHEREAS, on June 6, 2011, the law firm of Haile, Shaw & Pfaffenberger, P.A., as counsel for the Avellino Defendants, filed a motion to withdraw the reference of the Adversary Proceeding to the Bankruptcy Court (the “Motion to Withdraw the Reference”);

WHEREAS, on June 6, 2011, Broad & Cassel, as counsel for the defendants in the Adversary Proceeding identified in Exhibit B attached hereto (the “Bienes Defendants” and, together with the Avellino Defendants, the “Defendants”), filed a motion to join the Original Motion to Dismiss and the Motion to Withdraw the Reference;

WHEREAS, on March 6, 2012, Judge Jed S. Rakoff of the United States District Court for the Southern District of New York (the “District Court”) entered an order (the “Order”) withdrawing the reference of the Adversary Proceeding to the Bankruptcy Court for the limited purpose of deciding the issues identified in the Order;

WHEREAS, on April 27, 2014, the District Court ruled on the last of the issues identified in the Order;

WHEREAS, on August 1, 2014, the District Court issued an order returning the Adversary Proceeding to the Bankruptcy Court (11-cv-03882 (JSR), Dkt. No. 26);

WHEREAS, on August 7, 2014, the Trustee and counsel for the Defendants (collectively, the “Parties”) entered into a “Stipulation and Order Extending Time to Respond to Complaint, Setting Briefing Schedule and Adjourning Pre-Trial Conference and Hearing” (Dkt. No. 81) (the “August 2014 Stipulation”);

WHEREAS, on September 24, 2014, the Avellino Defendants filed a supplemental motion to dismiss the Adversary Proceeding (the “Supplemental Motion to Dismiss”) and the Bienes Defendants filed a motion to join the Supplemental Motion to Dismiss;

WHEREAS, on November 24, 2014, the Trustee filed an amended complaint (the “Amended Complaint”) in response to the Supplemental Motion to Dismiss;

WHEREAS, the August 2014 Stipulation required the Parties to confer and agree to a schedule for the Defendants to respond to the Amended Complaint; and

WHEREAS, the Parties have conferred and agree to the schedule set forth below.

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned herein, as follows:

1. The Defendants shall have up to and including January 28, 2015, to answer or move to dismiss the Amended Complaint (the “Motion to Dismiss”).
2. The Trustee’s time to respond to a Motion to Dismiss shall be up to and including April 21, 2015.
3. The Defendants shall have up to and including May 19, 2015, to file a reply.
4. The hearing on the Motion to Dismiss shall take place on June 24, 2015.
5. The pre-trial conference, which was previously scheduled to be held on January 28, 2015, is adjourned to August 26, 2015, at 10:00 a.m., or otherwise shall proceed in accordance with applicable court rules.
6. Nothing in this stipulation is a waiver of the parties’ right to stipulate to further extensions. Nor is anything in this stipulation a waiver of any party’s right to request from the presiding Court a further extension, or of any other party’s right to object to any such request.

Dated: January 14, 2015
New York, New York

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Bernard L. Madoff*

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Attorney for Defendants Identified on Exhibit A

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Attorneys for Defendants Identified on Exhibit B

SO ORDERED:

Dated: January 15th, 2015
New York, New York

/s/ STUART M. BERNSTEIN
HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE